

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

WRIT PETITION NO. 293 OF 2004

Office Note, Office Memoranda
of Quorum, appearances, Court's
orders or directions and
Registrar's orders.

Court's or Judge's Orders

Shri S. S. Kakodkar, advocate for
the petitioner.

CORAM : S. A. BOBDE, J.

DATE : 8th July, 2004.

P.C.:

By this petition, the petitioner, who was the defendant in the suit, challenges the Order dated 28th April, 2004, by which the learned Civil Judge, Junior Division, Margao, has rejected the petitioner's application under Order 13 Rule 8 of the Code of Civil Procedure, for a direction to impound the deed of lease dated 1st June, 1985, with a prayer for not admitting it in evidence. The learned trial Court has held, and in my view rightly, that the fact that the document is not properly stamped in accordance with law is a curable

defect and that the law provides a procedure for curing the defect. Shri Kakodkar, learned counsel for the petitioner, submits that the Court has not followed that procedure, but fairly admits that the document has not yet been admitted in evidence. There is no reason assume that the Court will not follow the procedure before considering admitting the document.

2. As regards the registration, the trial Court has rightly relied on the proviso to Section 49 of the Registration Act, 1908, by which a document may be received as evidence of a contract in a suit for specific performance thereof under Chapter II of the Specific Relief Act, 1963. There is no challenge to the finding of the trial Court that it is a suit for specific performance of the terms of the lease deed.

3. Hence, there is no merit

in the petition which is hereby
dismissed, with a direction that the
trial court may take appropriate
steps for recovery of stamp duty as
expeditiously as possible.

S.A. BOBDE, J.

mc.